

APPEAL NO. 022807
FILED DECEMBER 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 3, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that the claimant had disability from May 10, 2002, and continuing through the date of the CCH. The appellant (carrier) appeals those determinations. There is no response from the claimant contained in our files.

DECISION

We affirm the hearing officer's decision.

The carrier contends that the hearing officer erred because he advocated on behalf of the claimant. The carrier states in its brief that, "Further evidence of the Hearing Officer's bias can be found in the Hearing Officer's representation of Dr. T as the 'company doctor'. The Hearing Officer has no evidence that Dr. T was the employer's company doctor." The claimant testified that he was sent to the company doctor, Dr. T, on several occasion during the CCH with no objections from the carrier. The carrier has misrepresented the fact in its appeal. Further, the hearing officer has a duty to fully develop the record. We note that an attorney did not represent the claimant. After review of the record and the evidence we are satisfied that the hearing officer did not act inappropriately.

Essentially, the carrier quarrels with the manner in which the hearing officer gave weight and credibility to the evidence. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied); American Motorists Insurance Co. v. Volentine, 867 S.W.2d 170 (Tex. App.-Beaumont 1993, no writ).

The record in this case presented conflicting evidence for the hearing officer to resolve. In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Elaine M. Chaney
Appeals Judge